City of Lafayette Staff Report

For: City Council / Redevelopment Agency Board

By: Ann Merideth, Community Development Director

Date Written: May 14, 2009

Meeting Dates: May 18 and 20, 2009

Subject: Continued consideration of the Draft Lafayette Downtown Strategy and Specific Plan

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Summary

The City Council / Agency Board held an all-day special meeting on May 9 to consider revisions to the Draft Lafayette Downtown Strategy and Specific Plan (Draft Plan). The Council continued its consideration to special meetings on May 18 and May 20.

Follow-up to May 9 Meeting

Reduced Building Height

The Council asked for additional information about possible effects from reducing the General Plan's building height limit from 35 feet to 25 feet. (The LHC recommended in its letter dated May 7 that the building height for buildings fronting on Mount Diablo Blvd. be limited to 25 feet, and there were public comments at the May 9 meeting about reducing the height limit to 25 feet maximum.) Staff discussed this issue with the City Attorney, and we can provide the following information:

- Reducing the height limit could be considered a "downzoning", but as long as property owners retain reasonable economic use of their properties, generally there should not be any legal implications for the City. Property owners may claim, however, inverse condemnation by the City through litigation.

- Regarding housing –

    - With a 25-foot height limit for buildings fronting Mount Diablo Blvd. in the downtown, the City will unlikely be able to meet future RHNA allocations. Unless staff conducts another detailed inventory of downtown vacant and underdeveloped sites, we will not know whether there are additional sites off the boulevard that will be able to make up for the loss of units resulting from a 25-foot height limit. The loss of potential sites within the downtown could result in the need to allow higher density housing outside the downtown (for example, BART lots, Deer Hill Road) to meet future RHNA allocations.

    - Since a 25-foot height limit would limit buildings to two stories, it will be difficult – perhaps impossible – to achieve the current allowable density of 35 du/acre for residential and mixed-use residential developments fronting the boulevard. A lower height limit would impact the overall allowable density in

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the downtown, reducing it to less than 20 du/acre. This would make a 25-foot height limit a governmental constraint which would impede the production of affordable housing.

- The density that can be realistically achieved with a 25-foot height limit will fall below 20 du/acre – but according to State law, the City has to be able to demonstrate that development is effectively occurring at 20 du/acre or greater to satisfy the adequate sites test. (The default density that is mandated by Government Code Section 65583.2(c)(3)(B) provides local governments with "default" density standards deemed adequate to meet the "appropriate zoning" test. The purpose is to provide a numerical density standard for local governments, resulting in greater certainty in the housing element review process. Given our location in the Bay Area, Lafayette falls into the 20 units/acre category.)

- Through the process of finding a site for Eden Housing, we have come to understand that an affordable housing project needs to contain 40 or more units to be cost effective for the non-profit developer. If a 25- foot height limit were established, finding suitable sites will be more difficult.

- Housing over commercial is already difficult to achieve, and a 25-foot height limit would make it even more so. Staff suggests that building codes may require elevators for ADA purposes, particularly for seniors. If the costs of those elevators were spread over fewer floors (and thus fewer units), such projects become even less feasible.

- The City's revised Housing Element is now being reviewed by the State, and it is anticipated that it will be certified this summer. If the height limit were reduced to 25 feet anywhere in the downtown, the certified Housing Element would have to be amended and resubmitted to the State. This would erode Lafayette's position and leave the City vulnerable to litigation and ineligibility for housing grants and other funding.

- With reduced building heights (and reduced density), the City's eligibility to secure grant and other outside funding for redevelopment in the downtown – especially near the BART station – would be compromised. As climate change legislation – AB 32 and SB 375 – are implemented in the future, land use and transportation funding will be more closely linked.

- In terms of redevelopment, smaller projects will generate lower assessed values and, therefore, lower tax increments. The result will be less funding that could be used for public improvements and facilities, such as parks, creek enhancement, pedestrian improvements, a senior/youth center, and/or affordable housing.

- A reduction in height would increase the number of applications seeking General Plan amendments, with applicants approaching the City Council to argue that, given property values in central Contra Costa County, it is not financially feasible to develop a quality project under 25 feet. With a State law maximum of four amendments allowed per year, the Council could thus be expected to spend more time considering those height and aesthetic questions that would otherwise be reserved for the Planning and Design Review Commissions, and could also be placed in the unenviable position of picking and choosing which developers would be allowed to thrive and which would not.

Other Downtowns

Two other downtowns, Walnut Creek and Danville, were mentioned in public comments at the meeting regarding building height. In Downtown Walnut Creek, the Broadway Plaza area has two building height limits. Along the north side fronting on Mount Diablo Blvd. (where Neiman Marcus is proposed) the building height limit is 35 feet; the remainder of the Plaza shopping area is 50 feet. In the original downtown area along North Main Street

between Mount Diablo Blvd. and Civic Drive, the height limit is 35 feet or 50 feet with the top 15 feet being stepped back. Downtown Danville is known as the Business District Area, and it is divided into 12 sub-areas. Height limits range from two stories or 35 feet, whichever is less, to three stories or 50 feet, whichever is less.

Other downtowns have been mentioned as well by the public throughout the process. These downtowns or central business districts have the following building height limits: Mill Valley – 35 feet; St. Helena – 35 feet, 30 feet abutting residential zone; Los Gatos – 45 feet; Los Altos – 30 or 40 feet, depending on location; and Carmel – 30 feet.

Next Steps

At its May 9 meeting and again at its regular meeting on May 11, the Council further discussed the process schedule . The Council tentatively set the July 13 meeting for its review of the Revised Draft Plan. Staff has reworked the schedule, and, if the Council wants the Planning Commission and Advisory Committee to provide comments first, July 13 will not work. Therefore, it is recommended that the Council review the Revised Draft Plan on July 27. A revised schedule is attached.

Recommendation

Decide on a model for a revised Draft Plan, and direct staff to begin the preparation of the Revised Draft Plan and the initial phases of the environmental review process.

Attachment

Next Steps Work Plan and Schedule – revised May 13, 2009

NEXT STEPS WORK PLAN AND SCHEDULE

Revised May 13, 2009

Specific Plan Environmental Impact Report

Steps	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1. City Council decides on model for Revised Draft Plan (RDP)								
2. Staff and Plan consultants revise Draft Plan based on Council model								
3. EIR consultant selection process (to follow requirements per grant)								
4. Agencies review of Notice of Preparation (30 days)								
5. City Council, Planning Commission, Advisory Committee receive RDP – 7/6								
6. RDP available to public – 7/6								
7. PC reviews RDP for EIR preparation								
8. PC meeting on RDP and recommended EIR alternatives to CC – 7/16								
9. Advisory Comm. meeting for comments on RDP to CC – ~7/20								
10. City Council meeting on RDP – 7/27								
11. EIR consultant undertakes preliminary Draft EIR research								
12. PC scoping meeting on Draft EIR – 8/6								
13. EIR consultant prepares Draft EIR								
14. Scoping results due at ABAG – 8/30 deadline								
15. Public review of Draft EIR (45 days)								
16. Planning Commission holds Draft EIR public hearing – 10/1								
17. Planning Commission reviews RDP for final revisions								
18. EIR consultant prepares Final EIR								
19. Staff and consultant prepare Final Plan								
20. Final EIR public review								
21. Final Plan public review								
22. Planning Commission considers Final EIR for recommendation								
23. Planning Commission considers Final Plan for recommendation								
24. City Council certfies Final EIR								
25. City Council adopts Final Plan								